

Remarks/Arguments

Applicants have cancelled Claims 4 and 5, and have added new dependent Claims 10 and 11. Therefore, Claims 1–3 and 6–11 are currently pending in this application. Claims 1, 8 and 9 are independent.

Independent Claim 1 and Corresponding Dependent Claims 2, 3, 6 and 7.

The Examiner has taken the position that independent Claim 1 is obvious in view of the teachings of U.S. Patent 5,542,935 (“Unger”). The Examiner points to Unger’s asserted teaching of the use of ultrasonic energy to rupture a microbubble containing hematoporphyrins and their derivatives, and further cites two technical articles to support his assertion that hematoporphyrins can be activated using ultrasonic energy. The Examiner also asserts that independent Claim 1 is unpatentable over the combined teachings of U.S. Patent 5,277,913 (“Thompson”) and U.S. Patent 5,817,048 (“Lawandy”). The Examiner relies upon Thompson for its asserted teaching of delivering a pharmaceutical substance in a liposome. The Examiner relies upon Lawandy for its asserted teaching of using ultrasonic energy to activate light activated therapeutic compounds.

While reserving the right to contest the substance of the Examiner’s assertions regarding the teachings of the cited references, to expedite prosecution Applicants have amended the method recited in independent Claim 1 to further recite “coupling a site directing molecule to the light activated drug, wherein the site directing molecule binds with the treatment site when the light activated drug is contacted with the treatment site under predefined physiological conditions”.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. See MPEP 2143.03. Neither Unger nor the cited articles teach the particular combination of features recited in amended independent Claim 1. Likewise, neither Thompson nor Lawandy teach this particular combination either. Therefore, Applicants respectfully submit that amended independent Claim 1 is allowable over the cited art, and respectfully request that this

rejection be withdrawn. Furthermore, Applicants respectfully submit that dependent Claims 2, 3, 6 and 7 are allowable for at least the same reasons that amended independent Claim 1 is allowable.

Independent Claim 8.

The Examiner has taken the position that independent Claim 8 is anticipated by Thompson. The Examiner asserts that Thompson lists phthalocyanines, naphthalocyanines and clorins as examples of light activated drugs, and further asserts that these compounds can also be activated using ultrasonic energy. The Examiner has also taken the position that Claim 8 is obvious based on Unger for the same reasons listed above with respect to Claim 1.

While reserving the right to contest the substance of the Examiner's assertions regarding the teachings of the cited references, to expedite prosecution Applicants have amended the product recited in independent Claim 8 to further recite "a site directing molecule coupled to the light activated drug, wherein the site directing molecule is selected from the group consisting of polydeoxyribonucleotides, oligodeoxyribonucleotides, polyribonucleotide analogs and oligoribonucleotide analogs".

To anticipate a claim, a reference must teach every element of the claim. See MPEP 2131. Furthermore, to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. See MPEP 2143.03. Neither Unger nor Thompson teach the particular combination of features recited in amended independent Claim 8. Therefore, Applicants respectfully submit that amended independent Claim 8 is allowable over the cited art, and respectfully request that this rejection be withdrawn.

Independent Claim 9.

The Examiner has taken the position that independent Claim 9 is unpatentable over the combined teachings of Unger and U.S. Patent 6,096,070 ("Ragheb"). Acknowledging that Unger does not specifically disclose use of a thrombolytic agent in this context, the Examiner takes the position that Ragheb teaches this feature.

Specifically, the Examiner asserts that Ragheb teaches that a bioactive material, which encompasses thrombolytics, can be microencapsulated.

While reserving the right to contest the substance of the Examiner's assertions regarding the teachings of the cited references, to expedite prosecution Applicants have amended the method recited in independent Claim 9 to further recite "a light activated drug having a site directing molecule coupled thereto, wherein the site directing molecule binds with a portion of the blood vessel when the light activated drug is contacted with the blood vessel under predefined physiological conditions".

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. See MPEP 2143.03. Neither Unger nor Ragheb teach the particular combination of features recited in amended independent Claim 9. Therefore, Applicants respectfully submit that amended independent Claim 9 is allowable over the cited art, and respectfully request that this rejection be withdrawn.

New Claims.

Applicants have added new Claims 10 and 11, both of which depend from independent Claim 9. The combinations of features recited in new Claims 10 and 11 are clearly disclosed in the original application as filed. See, for example, the disclosure provided in paragraphs **[0101]** and **[0191]** through **[0193]** of the published application (US 2004/0059313 A1). New Claims 10 and 11 recite combinations of features that are distinguishable over the art of record. Specifically, the cited references describe systems that do not include all of the features recited in new Claims 10 and 11, and/or that perform completely different functions as compared to the inventions recited in new Claims 10 and 11. Therefore, Applicants respectfully submit that new Claims 10 and 11 are in condition for allowance.

Conclusion.

Although the present communication includes amendments and/or characterizes the claim scope or referenced art, Applicants are not conceding here that previously

Application Number **10/620,296**
Amendment dated **3 October 2007**
Reply to Office Action of **6 April 2007**

pending claims are not patentable over the cited references. Rather, any amendments or characterizations are being made to facilitate expeditious prosecution of the application. Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

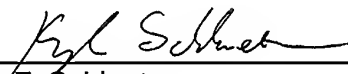
In view of the foregoing amendments, Applicants submit that the application is in condition for allowance, and respectfully request the same. If, however, some issue remains that the Examiner feels can be addressed by an Examiner's Amendment, the Examiner is cordially invited to call the undersigned for authorization.

Respectfully submitted,

KNOBBE MARTENS OLSON & BEAR LLP

Dated: 3 October 2007

By: _____


Kyle F. Schlueter
Registration No. 54,912
Attorney of Record
Customer No. 20,995
(310) 551-3450

4333556
092707